

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11044 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HALOL ENGG CO PVT LTD

Versus

REGIONAL PROVIDENT FUND COMMISSIONER & 1

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Appearance:

MR YS VYAS for Petitioner

MR JD AJMERA for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/10/97

ORAL JUDGMENT

Challenge is made by the petitioner, in this Special Civil Application, to the order annexure 'A' dated 31st March 1993 passed by respondent No.1 under section 7-A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act 1952').

2. Against this order, the petitioner filed an

application under section 19-A of the Act 1952, before the Central Government, which came to be dismissed under the order dated 28th June 1994. At that time, the Central Government had not constituted the Employees' Provident Fund Appellate Tribunal under the aforesaid Act, but now it has constituted the tribunal and as such there is a statutory right of appeal available to the petitioner under section 7-I of the Act 1952. In view of this fact, this Special Civil Application is not maintainable and the same is dismissed only on the ground of availability of alternative remedy.

3. In the result, this Special Civil Application fails only on the ground that now statutory remedy of appeal is available to the petitioner under section 7-I of the Act 1952, and in case such appeal is filed within a period of one month from today, the same may not be dismissed only on the ground of limitation and shall be decided on merits by the appellate tribunal. The interim relief in whatever terms granted by this Court in this case is extended for further six weeks from today. The appellate tribunal shall consider afresh, the matter of continuation of interim relief in favour of petitioner in accordance with law. It is however made clear that the appellate tribunal, while dealing with the question of extending the interim relief granted by this Court, shall not be influenced by the fact that this Court had earlier granted interim relief in favour of the petitioner, and shall decide the matter in accordance with law. Rule discharged subject to aforesaid directions. No order as to costs.

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(sunil)